

City Council of the Mayor and Council of New Castle
Special City Council Meeting, Workshop Session and Public Hearing
New Castle Senior Center – 400 South Street – New Castle
Tuesday – February 28, 2012 – 6 p.m.

Roll Call:

Present:

Council President William Barthel
Councilperson John Cochran
Councilperson John Gaworski
Councilperson Ted Megginson
Councilperson Teel Petty

Also present: Mayor Donald Reese, City Administrator Cathryn Thomas

Agenda

Special Meeting:

1. Motion, discussion and vote on Resolution No. 2012-4, approving a minor subdivision for 419 South Street (current owner Baldini, formerly owned by Evans) adjacent to Good Will Fire Co.

Councilperson Cochran made a motion to approve Resolution No. 2012-4. Councilperson Megginson seconded the motion. The motion passed unanimously.

2. Motion, discussion and vote on a Bank Resolution to pay the New Castle Conservation District the third requisition amount for work done on the City's ARRA/Stimulus projects.

Councilperson Cochran made a motion to approve Resolution No. 2012-4. Councilperson Gaworski seconded the motion.

Administrator Thomas said this is the ongoing task of the City meeting its obligation related to the American Recovery and Reinvestment Act, in which the City did a number of stormwater projects. This amount is owed to the New Castle Conservation District because they have already paid the contractors.

The motion passed unanimously.

Workshop:

1. City Council discussion on finalizing language for changes proposed to the City Charter.

City Solicitor Dan Losco gave a summary of the proposed changes. The major changes include changing the City's name from the Mayor and Council of New Castle to the City of New Castle; adopting the State's process of annexation since the State preempts the City anyway; the requirement that office holders be landowners was eliminated because the U.S. Supreme Court ruled it unconstitutional many years ago; the fee to run for office was eliminated; clarified qualifications for two positions, City Solicitor and City Engineer, and that the appointments are the purview of the City Council. In addition, elected officials' term lengths, currently two years, have been extended to four years and the councilmembers' terms, as well as those of the mayor, will be staggered. A provision was added for a process to remove councilmembers who do not attend meetings regularly; duties of Mayor have been restated and consolidated but with few changes; the Mayor's Court has been retained, though it has not been in operation for some time. There was some language added in terms of exhibitions.

The other big change reflects the borrowing power of Council. The Council was having difficulty responding quickly in certain situations, such as being able qualify for loan-forgiveness programs and thus left money on the table. The changes call for a three-tier system. The first tier is short-term financing, up to \$500,000, and must be repaid within 13 months. The second tier is by resolution on a limited basis. The limitation is 1.2 percent of City's total real estate value, which currently equates to a limit of \$3 million in the aggregate which could be borrowed. It has been changed in the process of the City Council reviewing the Charter and responding to citizen comments, where the money borrowed shall be limited to capital expenditures. There is a requirement of a public hearing. There was also language put in that this tier of borrowing cannot be used for a pier. The third tier is like what is allowed under the current Charter. If it is more than 1.2 percent of the City's total real estate value, it would have to go to referendum.

President Barthel said Council had appointed a committee back in June that worked nine months on the Charter review. The meetings were open and advertised. The Council has held three workshops and this is the second public hearing. The recent changes made reflect comments from the public. The City spent \$2,460 on mailings to let people know the hearings were taking place.

Solicitor Losco said the second tier is in lockstep with many other communities in the State.

Public Hearing:

President Barthel opened the public hearing.

Arleen Harris, of Moore Avenue, said Council has done a great job. She asked what the Tier I money is going to be borrowed against.

Mr. Losco said the City would be borrowing against anticipated revenues.

Administrator Thomas said there was a time, long before she began, that the City was in desperate straits at the end of the fiscal year. The City needed money to meet payroll and went out and got a line of credit of \$250,000.

Ms. Harris said she does not see where it states the borrowing is for an emergency.

President Barthel said where that (second tier) borrowing stems from is there was a grant that was available that could have been used for repairs on the Buttonwood Dike, but the City was not in a position to act quickly enough nor was it practical to do another referendum, right after the storm water project referendum. Because the City could not act quickly enough—with a shovel-ready project—the money went away. The City's thought after that is that it is better to be prepared in the future so Council has the ability to act quickly. City Council also had a discussion about what would happen if a major disaster occurred and the City needed money quickly. The additional tiers gives the Council flexibility.

Tom Whitehead, of Second Street, said he was 100 percent behind the Charter changes and said the committee did a good job. He also commended the Council and the new Mayor for being in harmony. There is a good feeling around town. He said MSC does a great job and rates are cheap.

Carol Hickman, of 304 W. 9th St., said she feels the same way as she did at the last meeting, except for a few things. Council has taken a few people's concerns into consideration. She feels City Council somehow should elicit the opinions of many people in the City, probably by referendum, on the various changes.

Jack Klingmeyer, 804 W. 13th St., said he appreciates the work of the committee. He asked whether Council was familiar with the Home Rule Law. He explained some of the details of the law. There would be a vote by citizens on the various amendments. He likened the Charter to the Constitution. Council is not following the

Home Rule guidelines. There are many things that can be debated in the changes. He said a resolution is a minor act. He said the Committee meetings were public meetings but not public hearings. He said the idea of the Mayor being a yes-boy of Council is something he has always been against. Mr. Klingmeyer handed out copies of the Home Rule Law.

Linda Ratchford, of 24 The Strand, thanked the Mayor and Council and the Charter Committee that did a lot of hard work on the modernization of the Charter. It took a lot of work. She said people have had plenty of opportunities to comment on it. It is good for the City to improve its efficiency and flexibility, and to move forward to ensure continuity of leadership.

Larry Ciskanik, of 36. W. 7th St, said what Mr. Klingmeyer said made a lot of sense. He asked what percentage of the operating budget the \$500,000 (Tier 1 borrowing) represented.

Mr. Losco said 10 percent. Mr. Ciskanik said then \$3 million would be 60 percent. Mr. Losco said yes, but the difference is \$3 million would be long-term borrowing.

Mr. Ciskanik asked when it was going to be voted on. President Barthel said Council would vote on it at this meeting.

Mr. Ciskanik said Council was taking away citizens right to vote on it. Mr. Losco said the first sentence of the Home Rule Law states it is done by resolution, which is what is being proposed, or an alternative that involves electing seven residents and a long procedure that results in a referendum vote. The vast majority of changes to charters are done this way. To say it is in some way is illegal is incorrect. Both ways are legitimate ways of doing it; the resolution is much more common.

Sally Denton, of 209 E. 2nd Street, thanked the citizens who work on the Charter Committee and Council for considering it. She said Mr. Klingmeyer describing Mayor Don Reese as a yes-man is disrespectful. Mayor Reese is for the City of New Castle and a man of integrity.

William Boyle, of 209 E. 2nd Street, thanked the former Mayor for trying to educate everyone about the Home Rule. He said, however, if we had a referendum in this town every time someone proposed a common sense change, that's all the City would get done. He said the City already had a referendum when it voted the entire Council back in and a new Mayor. The leader of the opponents have threatened to go to Dover to fight the changes. He said the people involved in the election last time also know their way to Dover. He feels Council has more than explained the necessities and reasons for the Charter changes. The majority of residents, with their votes, empowered Council to do that. He implores Council to do that.

Marty Wright thanked the people who worked on the effort. He said he generally is in favor of the modernization. He asked on the short-term borrowing if there is cumulative limit. Mr. Losco said the limit is \$500,000 in aggregate.

Mr. Klingmeyer said the City is going to Dover for the changes. If they use Home Rule the City does not have to go to Dover.

Michael Heyman, of East Second Street, said he agrees with Mr. Klingmeyer and Ms. Hickman. He said the bar should be set higher. Residents should decide. He said he is concerned about the precedents if it is passed. He said Councils could keep coming back and up the limit, or eliminate any limit or referendums. He said the same thing can happen with length of terms. He said he went to one of the meetings and suggested to Genevieve Miller that the Charter include citizens petitioning for City Charter if they got 650 signatures.

John Houben, of Washington Park, said he was elected in 1991 as mayor, the first time he ran for office. He was a member of the Charter Committee. He said residents vote nationally for six years, four years. He stressed that

with his inexperience when elected, if he had a four-year term he would have been a better person and better Mayor for the City and the people. It takes two years before you know what you are doing. On borrowing, his dad was a small-business person and you need to have money for emergencies. In 2001, he had a survey ballot and asked people about four year terms and staggered terms. The question on whether residents favored four-year terms for Council President and Councilmembers, 564 yes and 383 no; for Mayor, 602 yes and 339 no; staggered terms, 566 yes and 355 no. It was a shock for him. Finally, for those who favored voting by districts the count was 731 yes, no 199.

Rod Gillespie, 24 W. 4th Street, read portions of the Home Rule Law. He said it indicates you have to have a referendum to amend the charter. Mr. Losco said there are two methods to amend a charter. Going to the legislature is the most common way for it to be done.

Administrator Thomas said she spoke with people in the State Board of Elections across the State. Many of the individuals she talked with have served for decades. Not one of them could remember an instance where a municipal corporation such as New Castle held a special election referendum for charter changes.

Mr. Heyman said he does not care what other towns do. New Castle is special town. There has to be a referendum.

Bill Blest, a former Council President, said his contention is with the four-year terms. The rest of the issues he has no issue with. He said he views the four-year terms as an extravagance. He said he believes Mr. Houben when he came on the Committee already knew what he wanted to do. If you satisfy your constituents, they will keep you in office.

Josephine Moore, a member of the Charter Committee, said the Committee looked at 2-year, 3-year and 4-year terms. She said Mr. Houben did not railroad four-year terms through. She was the one who pushed for four years.

Mr. Blest said Council has the City Administrator that provides continuity to Council. If someone wiped out all of Council, Mrs. Thomas is going to step up and run the City. The City full-time staff runs the day-to-day operation of the City. He said he looked at a list of communities and their voting terms. Only Wilmington—and recently Dover—from what he knows, have four-year terms. Many smaller towns have elections every year. With the ability to borrow and four-year terms, some future Council could do a lot of damage.

Mayor Don Reese said that Mr. Klingmeyer, when Mayor, was asked to appoint someone to the Committee to study the charter. The former Mayor never appointed anyone. Therefore, why should the City send anything to Dover. Dover will not approve anything unless the entire Council and the Mayor are for it. On at least two occasions, Mr. Klingmeyer cut the feet out from under the Council and made proposed Charter changes impossible to do.

Special Meeting:

Motion, discussion and vote on Resolution No. 2012-3, approving changes in the City Charter which shall be forwarded to the Delaware General Assembly for their consideration and action.

Councilperson Megginson made a motion to approve Resolution No. 2012-3. Councilperson Cochran seconded the motion.

President Barthel said he appreciated all the comments from people at the meeting and thanked the Committee that worked on it. He said there are two ways to change the Charter. Council has chosen the non-referendum option. There has been a lot of opportunity to comment. The Charter has not been changed in many years. He said in situations, for example if the dikes fail, he thinks it is prudent for Council to have the ability to borrow.

Councilperson Megginson agreed the Committee did a good job. It's probably not perfect but it's a good start.

Councilperson Cochran said the Committee spent on a lot of time reviewing the Charter.

Councilperson Petty said when she looked at the Charter she thought about what it did yesterday, bringing it up to date and what it needs to do for tomorrow. If things are costly today, they will be more costly in the future. She said she supports four-year terms because two years is not enough time. It is a small town but there is a lot going on.

Councilperson Gaworski said it is something that is long overdue and they came in with a good selection of changes. You need to get started. There are so many things that need attention.

The motion was passed unanimously.

President Barthel then asked for a roll call vote to ensure it was clear the changes had the clear support of the entire Council.

Councilperson Megginson aye
Councilperson Cochran aye
Councilperson Petty aye

Councilperson Gaworski aye
President Barthel aye

Workshop Matters:

Budget Discussion with Representatives of the Tree Commission

Administrator Thomas explained that during the budget sessions last year Council asked that the Tree Commission come back in and discuss with Council its ongoing needs. At the current time, the Tree Commission has a potential of \$11,325 of work, which would put it significantly over budget and the money would have to come out of contingency. It only has a small amount of funds left in its budget.

Tree Commission members John Lloyd and Chip Patterson said the reason for the request is the Commission is getting requests from homeowners, for pruning and removal of hazardous trees. Those current requests total \$11,325. A discussion was held on how the Tree Commission determines which work to do and background on previous funding, including past funding from the Trustees.

Mr. Lloyd said the City is considered woefully under-treed. The City has gotten free trees and volunteers to assist with planting. Mr. Patterson said maintenance is always a problem. Nobody wants to do it long term. The Tree Commission tries, where possible, to offset the costs by using City crews.

Mr. Lloyd said \$9,000 would cover what is needed to be done at this time. The board consensus was to authorize it.

A discussion was held about the full-time seasonal position for beautification work. Additional funds are needed to cover the costs for the remainder of the year. The budgeted amount was cut during the budget process a year ago. The consensus of the Council was that an added \$5,000 could be expended so that one seasonal worker would be employed full time to maintain all of the gardens throughout the City.

A motion was made by Councilperson Cochran to adjourn the meeting. Councilperson Gaworski seconded the motion. The motion was passed unanimously.

Respectfully submitted,

Michael Dickinson, New Castle City Clerk